

SENATE BILL NO. 317

INTRODUCED BY LEWIS, ELLIOTT, CURTISS, LIND, MENDENHALL, ERICKSON, MURPHY, TASH,
 MCALPIN, J. PETERSON, POMNICHOWSKI, BRUEGGEMAN, WILLIAMS, STORY, MACLAREN, NOONAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CONSERVATION EASEMENTS;
 REQUIRING THAT A CONSERVATION EASEMENT MAY NOT BE EXTINGUISHED BY TAKING FEE TITLE
 TO THE LAND TO WHICH THE CONSERVATION EASEMENT IS ATTACHED; CLARIFYING THAT A
 CONSERVATION EASEMENT RUNS WITH THE LAND; CLARIFYING THE REPORTING PROCESS OF
 CONSERVATION EASEMENT INFORMATION TO THE DEPARTMENT OF REVENUE; REQUIRING
 COORDINATION BETWEEN THE DEPARTMENT OF REVENUE AND DEPARTMENT OF ADMINISTRATION
 ON THE COLLECTION AND TRANSFER OF CONSERVATION EASEMENT INFORMATION; REQUIRING THE
 DEPARTMENT OF ADMINISTRATION TO MAKE CONSERVATION EASEMENT INFORMATION ACCESSIBLE
 ON THE DEPARTMENT'S WEBSITE AND AVAILABLE TO THE NATURAL HERITAGE PROGRAM; AMENDING
 SECTIONS 70-17-111, 70-17-203, 76-6-207, AND 90-1-404, MCA; AND PROVIDING ~~AN IMMEDIATE~~
 EFFECTIVE ~~DATE~~ DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-17-111, MCA, is amended to read:

"70-17-111. How servitude extinguished. (1) ~~A~~ Except as provided in subsection (2), a servitude is
 extinguished:

(~~1~~)(a) by the vesting of the right to the servitude and the right to the servient tenement in the same
 person;

(~~2~~)(b) by the destruction of the servient tenement;

(~~3~~)(c) by the performance of any act upon either tenement by the owner of the servitude or with ~~his~~ the
owner's assent ~~which that~~ is incompatible with its nature or exercise; or

(~~4~~)(d) when the servitude was acquired by enjoyment, by disuse ~~thereof~~ of the servitude by the owner
 of the servitude for the period prescribed for acquiring title by enjoyment.

(2) A conservation easement may not be extinguished by taking fee title to the land to which the
 conservation easement is attached."

1

2 **Section 2.** Section 70-17-203, MCA, is amended to read:

3 **"70-17-203. ~~What covenants~~ Covenants that run with the land.** (1) Every covenant contained in a
4 grant of an estate in real property, ~~which that~~ is made for the direct benefit of the property or some part of it ~~the~~
5 property then in existence; runs with the land.

6 (2) Subsection (1) includes:

7 (a) covenants of warranty, for quiet enjoyment, or for further assurance on the part of the grantor and
8 covenants for the payment of rent or of taxes or assessments upon the land on the part of a grantee; and

9 (b) conservation easements pursuant to 76-6-209.

10 (3) A covenant for the addition of some new thing to real property or for the direct benefit of some part
11 of the property not then in existence or annexed ~~thereto~~ to the property, when contained in a grant of an estate
12 in ~~such~~ the property and made by the covenantor expressly for ~~his~~ covenantor's assigns or to the assigns of the
13 covenantee, runs with the land so far as the assigns ~~thus~~ mentioned are concerned."

14

15 **Section 3.** Section 76-6-207, MCA, is amended to read:

16 **"76-6-207. Recording and description of easement.** (1) All conservation easements ~~shall~~ must be ~~duly~~
17 recorded in the county where the land lies so as to effect ~~their titles~~ the land's title in the manner of other
18 conveyances of interest in land and ~~shall~~ must describe the land subject to ~~said~~ the conservation easement by
19 adequate legal description or by reference to a recorded plat showing its boundaries.

20 (2) (a) The county clerk and recorder shall, upon recording, ~~cause~~ place a copy of the conservation
21 easement ~~to be placed~~ in a separate file within the office of the county clerk and recorder.

22 (b) ~~and~~ Upon recording of the conservation easement, the public body or qualified private organization
23 holding the conservation easement shall cause mail or electronically transfer a copy of the conservation
24 easement to be mailed to the department of revenue within 30 days of receipt of the original conservation
25 easement by the public body or qualified organization from the clerk and recorder THE COUNTY CLERK AND
26 RECORDER SHALL PROVIDE A COPY OF THE CONSERVATION EASEMENT TO THE DEPARTMENT OF REVENUE OFFICE IN THAT
27 COUNTY WITHIN 30 DAYS OF THE RECEIPT OF THE ORIGINAL CONSERVATION EASEMENT."

28

29 **Section 4.** Section 90-1-404, MCA, is amended to read:

30 **"90-1-404. Land information -- management -- duties of department.** (1) The department shall:

- 1 (a) serve as the administrator of the account;
- 2 (b) work with all federal, state, local, private, and tribal entities to develop and maintain land information;
- 3 (c) annually develop a land information plan that describes the priority needs to collect, maintain, and
- 4 disseminate land information. The land information plan must have as a component a proposed budget designed
- 5 to accomplish the goals and objectives of the plan.
- 6 (d) present the land information plan to the council for review and endorsement;
- 7 (e) establish, by administrative rule, an application process and a granting process that must be used
- 8 to distribute funds in the account. The granting process must give preference to interagency or intergovernmental
- 9 grant requests whenever multiple state agencies, local governments or agencies, or Indian tribal governments
- 10 or tribal entities have partnered together to meet a requirement of the land information plan.
- 11 (f) review all grant applications from state agencies, local governments or agencies, and Indian tribal
- 12 governments or tribal entities for the purpose of implementing the land information plan;
- 13 (g) monitor the use of grant funds distributed to a state agency, a local government or agency, or an
- 14 Indian tribal government or tribal entity or to any combination of state, local, and Indian tribal governments or
- 15 entities to ensure that the use of the funds complies with the purposes of this part;
- 16 (h) coordinate the development of technological standards for creating land information;
- 17 (i) serve as the primary point of contact for national, regional, state, and other GIS coordinating groups
- 18 for the purpose of channeling issues and projects to the appropriate individual, organization, agency, or other
- 19 entity;
- 20 (j) provide administrative and staff support to the council, including paying the expenses of the council;
- 21 (k) annually prepare a budget to carry out the department's responsibilities described in this section; ~~and~~
- 22 (l) report to the governor and the legislature, as provided for in 5-11-210, on the progress made in the
- 23 ongoing collection, maintenance, standardization, and dissemination of land information; and
- 24 (m) implement the conservation easement information requirements as provided for in [section 5].
- 25 (2) To fulfill the responsibilities described in subsection (1), the department or any recipient of funds
- 26 granted pursuant to this part may contract with a public or private entity."
- 27

28 **NEW SECTION. Section 5. Additional reporting procedures -- coordination of information**

29 **collection, transfer, and accessibility.** (1) A public body or qualified private organization holding a conservation

30 easement before [the effective date of this ~~act~~ SECTION] shall mail or electronically transfer a copy of that

1 conservation easement to the department of revenue within 6 months of [the effective date of this act SECTION].

2 (2) THE DEPARTMENT OF REVENUE SHALL REVIEW CONSERVATION EASEMENT AGREEMENTS COLLECTED
 3 PURSUANT TO 76-6-207 AND SUBSECTION (1) OF THIS SECTION AND RECORD THE:

4 (A) LEGAL DESCRIPTION OF THE CONSERVATION EASEMENT AS IT RELATES TO THE ESTABLISHED PROPERTY
 5 BOUNDARIES IDENTIFIED IN THE CONSERVATION EASEMENT AGREEMENT;

6 (B) APPROXIMATE ACREAGE AS IDENTIFIED IN THE CONSERVATION EASEMENT AGREEMENT;

7 (C) DATE OF THE CONSERVATION EASEMENT AGREEMENT;

8 (D) BOOK AND PAGE OR DOCUMENT NUMBER AS PROVIDED FOR IN 7-4-2617; AND

9 (E) THE NAME OF THE CONSERVATION EASEMENT GRANTEE.

10 ~~(2)~~(3) (a) The department of revenue shall transfer conservation easement information collected
 11 pursuant to 76-6-207 and ~~subsection (4)~~ SUBSECTIONS (1) AND (2) of this section to the department of
 12 administration.

13 (b) The department of revenue shall coordinate with the department of administration to develop
 14 procedures regarding the collection and transfer of conservation easement information between the two agencies.

15 (c) The department of administration shall convert conservation easement information received from the
 16 department of revenue to a digital format for land information purposes authorized in Title 90, chapter 1, part 4,
 17 that can be accessed through the department of administration's website.

18 (D) THE DEPARTMENT OF ADMINISTRATION SHALL PROVIDE THE CONSERVATION EASEMENT DATA TO THE
 19 MONTANA NATURAL HERITAGE PROGRAM FOR INCORPORATION INTO APPROPRIATE DATABASES DEVELOPED OR
 20 MAINTAINED FOR THE PURPOSES OF TITLE 90, CHAPTER 15.

21
 22 NEW SECTION. Section 6. Codification instruction. [Section 5] is intended to be codified as an
 23 integral part of Title 76, chapter 6, part 2, and the provisions of Title 76, chapter 6, part 2, apply to [section 5].

24
 25 NEW SECTION. Section 7. Effective date DATES. ~~[This act]~~ (1) EXCEPT AS PROVIDED IN SUBSECTION (2),
 26 [THIS ACT] is effective on passage and approval.

27 (2) [SECTION 5] IS EFFECTIVE OCTOBER 1, 2007.

28 - END -